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SENATE BILL 838

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Cisco McSorley

AN ACT

**RELATING TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT;
CLARIFYING JURISDICTION PROCEEDINGS; MODIFYING SUPPORT ORDERS;
EXPANDING CIVIL PROVISIONS; AMENDING, REPEALING, ENACTING AND
RECOMPILING SECTIONS OF THE UNIFORM INTERSTATE FAMILY SUPPORT
ACT.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 40-6A-101 NMSA 1978 (being Laws 1994,
Chapter 107, Section 101, as amended) is recompiled as Section
40-6A-102 NMSA 1978 and is amended to read:**

**"40-6A-102. DEFINITIONS. -- As used in the Uniform
Interstate Family Support Act:**

**(1) "child" means an individual, whether over or
under the age of majority, who is or is alleged to be owed a
duty of support by the individual's parent or who is or is**

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1 alleged to be the beneficiary of a support order directed to
2 the parent;

3 (2) "child-support order" means a support order for
4 a child, including a child who has attained the age of majority
5 under the law of the issuing state;

6 (3) "duty of support" means an obligation imposed
7 or imposable by law to provide support for a child, spouse or
8 former spouse, including an unsatisfied obligation to provide
9 support;

10 (4) "home state" means the state in which a child
11 lived with a parent or a person acting as parent for at least
12 six consecutive months immediately preceding the time of filing
13 of a petition or comparable pleading for support and, if a
14 child is less than six months old, the state in which the child
15 lived from birth with any of them. A period of temporary
16 absence of any of them is counted as part of the six-month or
17 other period;

18 (5) "income" includes earnings or other periodic
19 entitlements to money from any source and any other property
20 subject to withholding for support under the law of this state;

21 (6) "income-withholding order" means an order or
22 other legal process directed to an obligor's employer or other
23 debtor to withhold support from the income of the obligor;

24 (7) "initiating state" means a state from which a
25 proceeding is forwarded or in which a proceeding is filed for

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1 forwarding to a responding state under the Uniform Interstate
2 Family Support Act or a law or procedure substantially similar
3 to that act [~~the Uniform Reciprocal Enforcement of Support Act~~
4 ~~or the Revised Uniform Reciprocal Enforcement of Support Act~~];

5 (8) "initiating tribunal" means the authorized
6 tribunal in an initiating state;

7 (9) "issuing state" means the state in which a
8 tribunal issues a support order or renders a judgment
9 determining parentage;

10 (10) "issuing tribunal" means the tribunal that
11 issues a support order or renders a judgment determining
12 parentage;

13 (11) "law" includes decisional and statutory law
14 and rules and regulations having the force of law;

15 (12) "obligee" means:

16 (i) an individual to whom a duty of support is
17 or is alleged to be owed or in whose favor a support order has
18 been issued or a judgment determining parentage has been
19 rendered;

20 (ii) a state or political subdivision to which
21 the rights under a duty of support or support order have been
22 assigned or which has independent claims based on financial
23 assistance provided to an individual obligee; or

24 (iii) an individual seeking a judgment
25 determining parentage of the individual's child;

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1 (13) "obligor" means an individual or the estate of
2 a decedent who:

3 (i) [~~who~~] owes or is alleged to owe a duty of
4 support;

5 (ii) [~~who~~] is alleged but has not been
6 adjudicated to be a parent of a child; or

7 (iii) [~~who~~] is liable under a support order;

8 (14) "person" means an individual, corporation,
9 business trust, estate, trust, partnership, limited liability
10 company, association, joint venture, government, governmental
11 subdivision, agency or instrumentality, public corporation or
12 any other legal or commercial entity;

13 (15) "record" means information that is inscribed
14 on a tangible medium or that is stored in an electronic or
15 other medium and is retrievable in perceivable form;

16 [~~(14)~~] (16) "register" means to record a support
17 order or judgment determining parentage in the appropriate
18 tribunal of this state;

19 [~~(15)~~] (17) "registering tribunal" means a tribunal
20 in which a support order is registered;

21 [~~(16)~~] (18) "responding state" means a state in
22 which a proceeding is filed or to which a proceeding is
23 forwarded for filing from an initiating state under the Uniform
24 Interstate Family Support Act or law or procedure substantially
25 similar to that act; [~~the Uniform Reciprocal Enforcement of~~

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1 ~~Support Act or the Revised Uniform Reciprocal Enforcement of~~
2 ~~Support Act;~~

3 ~~(17)]~~ (19) "responding tribunal" means the
4 authorized tribunal in a responding state;

5 ~~[(18)]~~ (20) "spousal support order" means a support
6 order for a spouse or former spouse of the obligor;

7 ~~[(19)]~~ (21) "state" means a state of the United
8 States, the District of Columbia, Puerto Rico, the United
9 States Virgin Islands or any territory or insular possession
10 subject to the jurisdiction of the United States. "State"
11 includes an Indian tribe, pueblo, nation or band and a foreign
12 ~~[jurisdiction]~~ country or subdivision that has:

13 (i) been declared to be a foreign
14 reciprocating country or political subdivision under federal
15 law;

16 (ii) established a reciprocal arrangement for
17 child support with this state as provided in Section 40-6A-308
18 NMSA 1978; or

19 (iii) enacted a law or established procedures
20 for issuance and enforcement of support orders which are
21 substantially similar to the procedures under the Uniform
22 Interstate Family Support Act; [the Uniform Reciprocal
23 Enforcement of Support Act or the Revised Uniform Reciprocal
24 Enforcement of Support Act;

25 ~~(20)]~~ (22) "support enforcement agency" means a

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1 public official or agency authorized to ~~seek~~:

2 (i) seek enforcement of support orders or laws
3 relating to the duty of support;

4 (ii) seek establishment or modification of
5 child support;

6 (iii) seek determination of parentage; ~~or~~

7 (iv) ~~to~~ locate obligors or their assets; or

8 determine the controlling child-support
9 order;

10 ~~(21)~~ (23) "support order" means a judgment,
11 decree, ~~or~~ order or directive, whether temporary, final or
12 subject to modification, issued by a tribunal for the benefit
13 of a child, a spouse or a former spouse, which provides for
14 monetary support, health care, arrearages or reimbursement and
15 may include related costs and fees, interest, income
16 withholding, attorney's fees and other relief; and

17 ~~(22)~~ (24) "tribunal" means a court,
18 administrative agency or quasi-judicial entity authorized to
19 establish, enforce or modify support orders or to determine
20 parentage. "

21 Section 2. Section 40-6A-103 NMSA 1978 (being Laws 1994,
22 Chapter 107, Section 103) is recompiled as Section 40-6A-104
23 NMSA 1978 and is amended to read:

24 "40-6A-104. REMEDIES CUMULATIVE. --

25 (a) Remedies provided by the Uniform Interstate

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1 Family Support Act are cumulative and do not affect the
2 availability of remedies under other law, including the
3 recognition of a support order of a foreign country or
4 political subdivision on the basis of comity.

5 (b) The Uniform Interstate Family Support Act does
6 not:

7 (1) provide the exclusive method of
8 establishing or enforcing a support order under the law of this
9 state; or

10 (2) grant a tribunal of this state
11 jurisdiction to render judgment or issue an order relating to
12 child custody or visitation in a proceeding under the Uniform
13 Interstate Family Support Act. "

14 Section 3. Section 40-6A-201 NMSA 1978 (being Laws 1994,
15 Chapter 107, Section 201) is amended to read:

16 "40-6A-201. BASES FOR JURISDICTION OVER NONRESIDENT. --

17 (a) In a proceeding to establish or enforce [~~or~~
18 ~~modify~~] a support order or to determine parentage, a tribunal
19 of this state may exercise personal jurisdiction over a
20 nonresident individual or the individual's guardian or
21 conservator if:

22 (1) the individual is personally served with
23 notice within this state;

24 (2) the individual submits to the jurisdiction
25 of this state by consent, by entering a general appearance or

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1 by filing a responsive document having the effect of waiving
2 any contest to personal jurisdiction;

3 (3) the individual resided with the child in
4 this state;

5 (4) the individual resided in this state and
6 provided prenatal expenses or support for the child;

7 (5) the child resides in this state as a
8 result of the acts or directives of the individual;

9 (6) the individual engaged in sexual
10 intercourse in this state and the child may have been conceived
11 by that act of intercourse;

12 (7) the individual asserted parentage in the
13 putative father registry maintained in this state by the
14 department of health; or

15 (8) there is any other basis consistent with
16 the constitutions of this state and the United States for the
17 exercise of personal jurisdiction.

18 (b) The bases of personal jurisdiction set forth in
19 Subsection (a) of this section or in any other law of this
20 state may not be used to acquire personal jurisdiction for a
21 tribunal of the state to modify a child support order of
22 another state unless the requirements of Section 40-6A-611 or
23 40-6A-615 NMSA 1978 are met."

24 Section 4. Section 40-6A-202 NMSA 1978 (being Laws 1994,
25 Chapter 107, Section 202) is repealed and a new Section
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1 40-6A-202 NMSA 1978 is enacted to read:

2 "40-6A-202. [NEW MATERIAL] DURATION OF PERSONAL
3 JURISDICTION. -- Personal jurisdiction acquired by a tribunal of
4 this state in a proceeding under the Uniform Interstate Family
5 Support Act or other law of this state relating to a support
6 order continues as long as a tribunal of this state has
7 continuing, exclusive jurisdiction to modify its order or
8 continuing jurisdiction to enforce its order as provided by
9 Sections 40-6A-205, 40-6A-206 and 40-6A-211 NMSA 1978. "

10 Section 5. Section 40-6A-204 NMSA 1978 (being Laws 1994,
11 Chapter 107, Section 204) is amended to read:

12 "40-6A-204. SIMULTANEOUS PROCEEDINGS [~~IN ANOTHER~~
13 ~~STATE~~]. --

14 (a) A tribunal of this state may exercise
15 jurisdiction to establish a support order if the petition or
16 comparable pleading is filed after a petition or comparable
17 pleading is filed in another state only if:

18 (1) the petition or comparable pleading in
19 this state is filed before the expiration of the time allowed
20 in the other state for filing a responsive pleading challenging
21 the exercise of jurisdiction by the other state;

22 (2) the contesting party timely challenges the
23 exercise of jurisdiction in the other state; and

24 (3) if relevant, this state is the home state
25 of the child.

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1 (b) A tribunal of this state may not exercise
2 jurisdiction to establish a support order if the petition or
3 comparable pleading is filed before a petition or comparable
4 pleading is filed in another state if:

5 (1) the petition or comparable pleading in the
6 other state is filed before the expiration of the time allowed
7 in this state for filing a responsive pleading challenging the
8 exercise of jurisdiction by this state;

9 (2) the contesting party timely challenges the
10 exercise of jurisdiction in this state; and

11 (3) if relevant, the other state is the home
12 state of the child."

13 Section 6. Section 40-6A-205 NMSA 1978 (being Laws 1994,
14 Chapter 107, Section 205, as amended) is amended to read:

15 "40-6A-205. CONTINUING, EXCLUSIVE JURISDICTION TO MODIFY
16 CHILD-SUPPORT ORDER. --

17 (a) A tribunal of this state [~~issuing~~] that has
18 issued a [~~support~~] child-support order consistent with the law
19 of this state has and shall exercise continuing, exclusive
20 jurisdiction [~~over a~~] to modify its child-support order if the
21 order is the controlling order and:

22 (1) [~~as long as~~] at the time of the filing of
23 a request for modification this state [~~remains~~] is the
24 residence of the obligor, the individual obligee or the child
25 for whose benefit the support order is issued; or

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1 (2) ~~[until all of the parties who are~~
2 ~~individuals have filed written consents with the tribunal of~~
3 ~~this state for a tribunal of another state to modify the order~~
4 ~~and assume continuing, exclusive jurisdiction]~~ even if this
5 state is not the residence of the obligor, the individual
6 obligee or the child for whose benefit the support order is
7 issued, the parties consent in a record or in open court that
8 the tribunal of this state may continue to exercise
9 jurisdiction to modify its order.

10 (b) A tribunal of this state [~~issuing~~] that has
11 issued a child-support order consistent with the law of this
12 state may not exercise [~~its~~] continuing exclusive jurisdiction
13 to modify the order if: [~~the order has been modified by a~~
14 ~~tribunal of another state pursuant to a law substantially~~
15 ~~similar to the Uniform Interstate Family Support Act.~~

16 (c) ~~If a child support order of this state is~~
17 ~~modified by a tribunal of another state pursuant to a law~~
18 ~~substantially similar to the Uniform Interstate Family Support~~
19 ~~Act, a tribunal of this state loses its continuing, exclusive~~
20 ~~jurisdiction with regard to prospective enforcement of the~~
21 ~~order issued in this state and may only:~~

22 (1) ~~enforce the order that was modified as to~~
23 ~~amounts accruing before the modification;~~

24 (2) ~~enforce nonmodifiable aspects of that~~
25 ~~order; and~~

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1 ~~(3) provide other appropriate relief for~~
2 ~~violations of that order which occurred before the effective~~
3 ~~date of the modification.~~

4 ~~(d) A tribunal of this state shall recognize the~~
5 ~~continuing, exclusive jurisdiction of]~~

6 (1) all of the parties who are individuals
7 file consent in a record with the tribunal of this state that a
8 tribunal of another state that has jurisdiction over at least
9 one of all the parties who is an individual or that is located
10 in the state of residence of the child may modify the order and
11 assume continuing, exclusive jurisdiction; or

12 (2) its order is not the controlling order.

13 (c) If a tribunal of another state [which] has
14 issued a child-support order pursuant to the Uniform Interstate
15 Family Support Act or a law substantially similar to [the
16 Uniform Interstate Family Support Act] that act that modifies a
17 child-support order of a tribunal of this state, tribunals of
18 this state shall recognize the continuing, exclusive
19 jurisdiction of the tribunal of the other state.

20 (d) A tribunal of this state that lacks continuing,
21 exclusive jurisdiction to modify a child-support order may
22 serve as an initiating tribunal to request a tribunal of
23 another state to modify a support order issued in that state.

24 (e) A temporary support order issued ex parte or
25 pending resolution of a jurisdictional conflict does not create

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1 continuing, exclusive jurisdiction in the issuing tribunal.

2 ~~[(f) A tribunal of this state issuing a support~~
3 ~~order consistent with the law of this state has continuing,~~
4 ~~exclusive jurisdiction over a spousal support order throughout~~
5 ~~the existence of the support obligation. A tribunal of this~~
6 ~~state may not modify a spousal support order issued by a~~
7 ~~tribunal of another state having continuing, exclusive~~
8 ~~jurisdiction over that order under the law of that state.]"~~

9 Section 7. Section 40-6A-206 NMSA 1978 (being Laws 1994,
10 Chapter 107, Section 206) is amended to read:

11 "40-6A-206. [~~ENFORCEMENT AND MODIFICATION OF SUPPORT~~
12 ~~ORDER BY TRIBUNAL HAVING]~~ CONTINUING JURISDICTION TO ENFORCE
13 CHILD-SUPPORT ORDER. --

14 (a) A tribunal of this state that has issued a
15 child-support order consistent with the law of this state may
16 serve as an initiating tribunal to request a tribunal of
17 another state to enforce [~~or modify a support order issued in~~
18 ~~that state~~]:

19 (1) the order if the order is the controlling
20 order and has not been modified by a tribunal of another state
21 that assumed jurisdiction pursuant to the Uniform Interstate
22 Family Support Act; or

23 (2) a money judgment for arrears of support
24 and interest on the order accrued before a determination that
25 an order of another state is the controlling order.

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1 (b) A tribunal of this state having continuing
2 [exclusive] jurisdiction over a support order may act as a
3 responding tribunal to enforce [or modify] the order. [If a
4 party subject to the continuing, exclusive jurisdiction of the
5 tribunal no longer resides in the issuing state, in subsequent
6 proceedings the tribunal may apply Section 316 of the Uniform
7 Interstate Family Support Act to receive evidence from another
8 state and Section 318 of that act to obtain discovery through a
9 tribunal of another state.]

10 (c) ~~A tribunal of this state which lacks~~
11 ~~continuing, exclusive jurisdiction over a spousal support order~~
12 ~~may not serve as a responding tribunal to modify a spousal~~
13 ~~support order of another state.]"~~

14 Section 8. Section 40-6A-207 NMSA 1978 (being Laws 1994,
15 Chapter 107, Section 207, as amended) is amended to read:

16 "40-6A-207. [RECOGNITION] DETERMINATION OF CONTROLLING
17 CHILD-SUPPORT ORDER. --

18 (a) If a proceeding is brought under the Uniform
19 Interstate Family Support Act and only one tribunal has issued
20 a child-support order, the order of that tribunal controls and
21 [must] shall be so recognized.

22 (b) If a proceeding is brought under the Uniform
23 Interstate Family Support Act and two or more child-support
24 orders have been issued by tribunals of this state or another
25 state with regard to the same obligor and same child, a

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1 tribunal of this state having personal jurisdiction over both
2 the obligor and individual obligee shall apply the following
3 rules [~~in determining~~] and by order shall determine which order
4 [~~to recognize for purposes of continuing, exclusive~~
5 ~~jurisdiction~~] controls:

6 (1) if only one of the tribunals would have
7 continuing, exclusive jurisdiction under the Uniform Interstate
8 Family Support Act, the order of that tribunal controls and
9 shall be so recognized;

10 (2) if more than one of the tribunals would
11 have continuing, exclusive jurisdiction under the Uniform
12 Interstate Family Support Act, an order issued by a tribunal in
13 the current home state of the child controls [~~and must be so~~
14 ~~recognized~~], but if an order has not been issued in the current
15 home state of the child, the order most recently issued
16 controls [~~and must be so recognized~~]; and

17 (3) if none of the tribunals would have
18 continuing, exclusive jurisdiction under the Uniform Interstate
19 Family Support Act, the tribunal of this state [~~having~~
20 ~~jurisdiction over the parties~~] shall issue a child-support
21 order, which controls [~~and must be so recognized~~].

22 (c) If two or more child-support orders have been
23 issued for the same obligor and same child [~~and if the obligor~~
24 ~~or the individual obligee resides in this state~~] upon request
25 of a party [~~may request~~] who is an individual or support

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1 enforcement agency, a tribunal of this state [to] having
2 personal jurisdiction over both the obligor and the obligee who
3 is an individual shall determine which order controls [and must
4 be so recognized] under Subsection (b) of this section. The
5 request [~~must be accompanied by a certified copy of every~~
6 ~~support order in effect. The requesting party shall give~~
7 ~~notice of the request to each party whose rights may be~~
8 ~~affected by the determination]~~ may be filed with a registration
9 for enforcement or registration for modification pursuant to
10 Sections 40-6A-601 through 40-6A-615 NMSA 1978, or may be filed
11 as a separate proceeding.

12 (d) A request to determine which is the controlling
13 order shall be accompanied by a copy of every child-support
14 order in effect and the applicable record of payments. The
15 requesting party shall give notice of the request to each party
16 whose rights may be affected by the determination.

17 ~~[(d)]~~ (e) The tribunal that issued the controlling
18 order under Subsection (a), (b) or (c) of this section [~~is the~~
19 ~~tribunal that]~~ has continuing [~~exclusive]~~ jurisdiction [~~under]~~
20 to the extent provided in Section 40-6A-205 or 40-6A-206 NMSA
21 1978.

22 ~~[(e)]~~ (f) A tribunal of this state that determines
23 by order [~~the identity of]~~ which is the controlling order under
24 Paragraph (1) or (2) of Subsection (b) or Subsection (c) of
25 this section or [~~which]~~ that issues a new controlling order

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1 under Paragraph (3) of Subsection (b) of this section shall
2 state in that order:

3 (1) the basis ~~[upon]~~ on which the tribunal
4 made its determination;

5 (2) the amount of prospective support, if any;

6 and

7 (3) the total amount of consolidated arrears
8 and accrued interest, if any, under all of the orders after all
9 payments made are credited as provided by Section 40-6A-209
10 NMSA 1978.

11 ~~[(f)]~~ (g) Within thirty days after issuance of an
12 order determining ~~[the identity of]~~ which is the controlling
13 order, the party obtaining the order shall file a certified
14 copy of it ~~[with]~~ in each tribunal that issued or registered an
15 earlier order of child support. A party ~~[who obtains]~~ or
16 support enforcement agency obtaining the order [and] that fails
17 to file a certified copy is subject to appropriate sanctions by
18 a tribunal in which the issue of failure to file arises. The
19 failure to file does not affect the validity or enforceability
20 of the controlling order.

21 (h) An order that has been determined to be the
22 controlling order, or a judgment for consolidated arrears of
23 support and interest, if any, made pursuant to this section
24 must be recognized in proceedings under the Uniform Interstate
25 Family Support Act."

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1 Section 9. Section 40-6A-208 NMSA 1978 (being Laws 1994,
2 Chapter 107, Section 208) is amended to read:

3 "40-6A-208. ~~[MULTIPLE]~~ CHILD SUPPORT ORDERS FOR TWO OR
4 MORE OBLIGEES. -- In responding to ~~[multiple]~~ registrations or
5 petitions for enforcement of two or more child support orders
6 in effect at the same time with regard to the same obligor and
7 different individual obligees, at least one of which was issued
8 by a tribunal of another state, a tribunal of this state shall
9 enforce those orders in the same manner as if the ~~[multiple]~~
10 orders had been issued by a tribunal of this state. "

11 Section 10. Section 40-6A-209 NMSA 1978 (being Laws 1994,
12 Chapter 107, Section 209) is amended to read:

13 "40-6A-209. CREDIT FOR PAYMENTS. -- ~~[Amounts]~~ A tribunal of
14 this state shall credit amounts collected ~~[and credited]~~ for a
15 particular period pursuant to ~~[a support order]~~ any child-
16 support order against the amounts owed for the same period
17 under any other child-support order for support of the same
18 child issued by a tribunal of this or another state ~~[must be~~
19 ~~credited against the amounts accruing or accrued for the same~~
20 ~~period under a support order issued by the tribunal of this~~
21 ~~state]. "~~

22 Section 11. A new section of the Uniform Interstate
23 Family Support Act, Section 40-6A-210 NMSA 1978, is enacted to
24 read:

25 "40-6A-210. [NEW MATERIAL] APPLICATION OF THE UNIFORM

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1 INTERSTATE FAMILY SUPPORT ACT TO A NONRESIDENT SUBJECT TO
2 PERSONAL JURISDICTION. -- A tribunal of this state exercising
3 personal jurisdiction over a nonresident in a proceeding under
4 the Uniform Interstate Family Support Act, under other law of
5 this state relating to a support order or recognizing a support
6 order of a foreign country or political subdivision on the
7 basis of comity may receive evidence from another state
8 pursuant to Section 40-6A-316 NMSA 1978, communicate with a
9 tribunal or another state pursuant to Section 40-6A-317 NMSA
10 1978 and obtain discovery through a tribunal of another state
11 pursuant to Section 40-6A-318 NMSA 1978. In all other
12 respects, Sections 40-6A-301 through 40-6A-701 NMSA 1978 do not
13 apply and the tribunal shall apply the procedural and
14 substantive law of this state. "

15 Section 12. A new section of the Uniform Interstate
16 Family Support Act, Section 40-6A-211 NMSA 1978, is enacted to
17 read:

18 "40-6A-211. [NEW MATERIAL] CONTINUING, EXCLUSIVE
19 JURISDICTION TO MODIFY SPOUSAL-SUPPORT ORDER. --

20 (a) A tribunal of this state issuing a spousal-
21 support order consistent with the law of this state has
22 continuing, exclusive jurisdiction to modify the spousal-
23 support order through the existence of the support obligation.

24 (b) A tribunal of this state may not modify a
25 spousal-support order issued by a tribunal of another state

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1 having continuing, exclusive jurisdiction over that order under
2 the law of that state.

3 (c) A tribunal of this state that has continuing,
4 exclusive jurisdiction over a spousal-support order may serve
5 as:

6 (1) an initiating tribunal to request a
7 tribunal of another state to enforce the spousal-support order
8 issued in this state; or

9 (2) a responding tribunal to enforce or modify
10 its own spousal-support order. "

11 Section 13. Section 40-6A-301 NMSA 1978 (being Laws 1994,
12 Chapter 107, Section 301) is amended to read:

13 "40-6A-301. PROCEEDINGS UNDER THE UNIFORM INTERSTATE
14 FAMILY SUPPORT ACT. --

15 (a) Except as otherwise provided in the Uniform
16 Interstate Family Support Act, [~~this article applies~~] Sections
17 40-6A-301 through 40-6A-319 NMSA 1978 apply to all proceedings
18 under that act.

19 [~~(b) The Uniform Interstate Family Support Act~~
20 ~~provides for the following proceedings:~~

21 (1) ~~establishment of an order for spousal~~
22 ~~support or child support pursuant to Article 4 of that act;~~

23 (2) ~~enforcement of a support order and~~
24 ~~income withholding order of another state without registration~~
25 ~~pursuant to Article 5 of that act;~~

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1 ~~(3) registration of an order for spousal~~
2 ~~support or child support of another state for enforcement~~
3 ~~pursuant to Article 6 of that act;~~

4 ~~(4) modification of an order for child support~~
5 ~~or spousal support issued by a tribunal of this state pursuant~~
6 ~~to Article 2, Part B of that act;~~

7 ~~(5) registration of an order for child support~~
8 ~~of another state for modification pursuant to Article 6 of that~~
9 ~~act;~~

10 ~~(6) determination of parentage pursuant to~~
11 ~~Article 7 of that act; and~~

12 ~~(7) assertion of jurisdiction over nonresidents~~
13 ~~pursuant to Article 2, Part A of that act.~~

14 ~~(e)]~~ (b) An individual petitioner or a support
15 enforcement agency may ~~commence~~ initiate a proceeding
16 authorized under the Uniform Interstate Family Support Act by
17 filing a petition in an initiating tribunal for forwarding to a
18 responding tribunal or by filing a petition or a comparable
19 pleading directly in a tribunal of another state which has or
20 can obtain personal jurisdiction over the respondent. "

21 Section 14. Section 40-6A-302 NMSA 1978 (being Laws 1994,
22 Chapter 107, Section 302) is amended to read:

23 "40-6A-302. ~~[ACTION]~~ PROCEEDING BY MINOR PARENT. -- A minor
24 parent, or a guardian or other legal representative of a minor
25 parent, may maintain a proceeding on behalf of or for the

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1 benefit of the minor's child."

2 Section 15. Section 40-6A-303 NMSA 1978 (being Laws 1994,
3 Chapter 107, Section 303, as amended) is amended to read:

4 "40-6A-303. APPLICATION OF LAW OF STATE. -- Except as
5 otherwise provided by the Uniform Interstate Family Support
6 Act, a responding tribunal of this state shall:

7 (1) [~~shall~~] apply the procedural and substantive
8 law [~~including the rules on choice of law~~] generally applicable
9 to similar proceedings originating in this state and may
10 exercise all powers and provide all remedies available in those
11 proceedings; and

12 (2) [~~shall~~] determine the duty of support and the
13 amount payable in accordance with the law and support
14 guidelines of this state."

15 Section 16. Section 40-6A-304 NMSA 1978 (being Laws 1994,
16 Chapter 107, Section 304, as amended) is amended to read:

17 "40-6A-304. DUTIES OF INITIATING TRIBUNAL. --

18 (a) Upon the filing of a petition authorized by the
19 Uniform Interstate Family Support Act, an initiating tribunal
20 of this state shall forward [~~three copies of~~] the petition and
21 its accompanying documents:

22 (1) to the responding tribunal or appropriate
23 support enforcement agency in the responding state; or

24 (2) if the identity of the responding tribunal
25 is unknown, to the state information agency of the responding

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1 state with a request that they be forwarded to the appropriate
2 tribunal and that receipt be acknowledged.

3 (b) If [~~a responding state has not enacted the~~
4 ~~Uniform Interstate Family Support Act or a law or procedure~~
5 ~~substantially similar to that act]~~ requested by the responding
6 tribunal, a tribunal of this state [~~may~~] shall issue a
7 certificate or other document and make findings required by the
8 law of the responding state. If the responding state is a
9 foreign [~~jurisdiction~~] country or political subdivision, upon
10 request, the tribunal [~~may~~] shall specify the amount of support
11 sought, [~~and~~] convert that amount into the equivalent amount in
12 the foreign currency under applicable official or market
13 exchange rate as publicly reported and provide any other
14 documents necessary to satisfy the requirements of the
15 responding state. "

16 Section 17. Section 40-6A-305 NMSA 1978 (being Laws 1994,
17 Chapter 107, Section 305, as amended) is amended to read:

18 "40-6A-305. DUTIES AND POWERS OF RESPONDING TRIBUNAL. --

19 (a) When a responding tribunal of this state
20 receives a petition or comparable pleading from an initiating
21 tribunal or directly pursuant to Subsection [~~(e)~~] (b) of
22 Section 40-6A-301 NMSA 1978, it shall cause the petition or
23 pleading to be filed and notify the petitioner where and when
24 it was filed.

25 (b) A responding tribunal of this state, to the

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1 extent [~~otherwise authorized~~] not prohibited by other law, may
2 do one or more of the following:

3 (1) issue or enforce a support order, modify a
4 child-support order, determine the controlling child-support
5 order or [~~render a judgment to~~] determine parentage;

6 (2) order an obligor to comply with a support
7 order, specifying the amount and the manner of compliance;

8 (3) order income withholding;

9 (4) determine the amount of any arrearage and
10 specify a method of payment;

11 (5) enforce orders by civil or criminal
12 contempt, or both;

13 (6) set aside property for satisfaction of the
14 support order;

15 (7) place liens and order execution on the
16 obligor's property;

17 (8) order an obligor to keep the tribunal
18 informed of the obligor's current residential address,
19 telephone number, employer, address of employment and telephone
20 number at the place of employment;

21 (9) issue a bench warrant for an obligor who
22 has failed after proper notice to appear at a hearing ordered
23 by the tribunal and enter the bench warrant in any local and
24 state computer systems for criminal warrants;

25 (10) order the obligor to seek appropriate

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1 employment by specified methods;

2 (11) award reasonable attorney's fees and
3 other fees and costs; and

4 (12) grant any other available remedy.

5 (c) A responding tribunal of this state shall
6 include in a support order issued under the Uniform Interstate
7 Family Support Act, or in the documents accompanying the order,
8 the calculations on which the support order is based.

9 (d) A responding tribunal of this state may not
10 condition the payment of a support order issued under the
11 Uniform Interstate Family Support Act upon compliance by a
12 party with provisions for visitation.

13 (e) If a responding tribunal of this state issues
14 an order under the Uniform Interstate Family Support Act, the
15 tribunal shall send a copy of the order to the petitioner and
16 the respondent and to the initiating tribunal, if any.

17 (f) If requested to enforce a support order,
18 arrears or judgment or modify a support order stated in a
19 foreign currency, a responding tribunal of this state shall
20 convert the amount stated in the foreign currency to the
21 equivalent amount in dollars under applicable official or
22 market exchange rate as publicly reported."

23 Section 18. Section 40-6A-306 NMSA 1978 (being Laws 1994,
24 Chapter 107, Section 306, as amended) is amended to read:

25 "40-6A-306. INAPPROPRIATE TRIBUNAL. -- If a petition or

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1 comparable pleading is received by an inappropriate tribunal of
2 this state, [~~it~~] the tribunal shall forward the pleading and
3 accompanying documents to an appropriate tribunal in this state
4 or another state and notify the petitioner where and when the
5 pleading was sent. "

6 Section 19. Section 40-6A-307 NMSA 1978 (being Laws 1994,
7 Chapter 107, Section 307, as amended) is amended to read:

8 "40-6A-307. DUTIES OF SUPPORT ENFORCEMENT AGENCY. --

9 (a) A support enforcement agency of this state,
10 upon request, shall provide services to a petitioner in a
11 proceeding under the Uniform Interstate Family Support Act.

12 (b) A support enforcement agency of this state that
13 is providing services to the petitioner [~~as appropriate~~] shall:

14 (1) take all steps necessary to enable an
15 appropriate tribunal in this state or another state to obtain
16 jurisdiction over the respondent;

17 (2) request an appropriate tribunal to set a
18 date, time and place for a hearing;

19 (3) ~~make~~ a reasonable effort to obtain all
20 relevant information, including information as to income and
21 property of the parties;

22 (4) within two days, exclusive of Saturdays,
23 Sundays and legal holidays, after receipt of a written notice
24 in a record from an initiating, responding or registering
25 tribunal, send a copy of the notice to the petitioner;

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1 (5) within two days, exclusive of Saturdays,
2 Sundays and legal holidays, after receipt of a written
3 communication in a record from the respondent or the
4 respondent's attorney, send a copy of the communication to the
5 petitioner; and

6 (6) notify the petitioner if jurisdiction over
7 the respondent cannot be obtained.

8 (c) A support enforcement agency of this state that
9 requests registration of a child-support order in this state
10 for enforcement or for modification shall make reasonable
11 efforts:

12 (1) to ensure that the order to be registered
13 is the controlling order; or

14 (2) if two or more child-support orders exist
15 and the identity of the controlling order has not been
16 determined, to ensure that a request for such a determination
17 is made in a tribunal having jurisdiction to do so.

18 (d) A support enforcement agency of this state that
19 requests registration and enforcement of a support order,
20 arrears or judgment stated in a foreign currency shall convert
21 the amounts stated in the foreign currency into the equivalent
22 amounts in dollars under the applicable official or market
23 exchange rate as publicly reported.

24 (e) A support enforcement agency of the state shall
25 issue or request a tribunal of this state to issue a child-

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1 support order and an income-withholding order that redirect
2 payment of current support, arrears and interest if requested
3 to do so by a support enforcement agency of another state
4 pursuant to Section 40-6A-319 NMSA 1978.

5 [~~(e)~~] (f) The Uniform Interstate Family Support Act
6 does not create or negate a relationship of attorney and client
7 or other fiduciary relationship between a support enforcement
8 agency or the attorney for the agency and the individual being
9 assisted by the agency. "

10 Section 20. Section 40-6A-308 NMSA 1978 (being Laws 1994,
11 Chapter 107, Section 308) is amended to read:

12 "40-6A-308. DUTY OF ATTORNEY GENERAL. --

13 (a) If the attorney general determines that the
14 support enforcement agency is neglecting or refusing to provide
15 services to an individual, the attorney general may order the
16 agency to perform its duties under the Uniform Interstate
17 Family Support Act or may provide those services directly to
18 the individual.

19 (b) The attorney general may determine that a
20 foreign country or political subdivision has established a
21 reciprocal arrangement for child support with this state and
22 take appropriate action for notification of the determination. "

23 Section 21. Section 40-6A-310 NMSA 1978 (being Laws 1994,
24 Chapter 107, Section 310) is amended to read:

25 "40-6A-310. DUTIES OF STATE INFORMATION AGENCY. --

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1 (a) The human services department is the state
2 information agency under the Uniform Interstate Family Support
3 Act.

4 (b) The state information agency shall:

5 (1) compile and maintain a current list,
6 including addresses, of the tribunals in this state which have
7 jurisdiction under the Uniform Interstate Family Support Act
8 and any support enforcement agencies in this state and transmit
9 a copy to the state information agency of every other state;

10 (2) maintain a register of names and addresses
11 of tribunals and support enforcement agencies received from
12 other states;

13 (3) forward to the appropriate tribunal in the
14 [~~place~~] county in this state in which the [~~individual~~] obligee
15 who is an individual or the obligor resides, or in which the
16 obligor's property is believed to be located, all documents
17 concerning a proceeding under the Uniform Interstate Family
18 Support Act received from an initiating tribunal or the state
19 information agency of the initiating state; and

20 (4) obtain information concerning the location
21 of the obligor and the obligor's property within this state not
22 exempt from execution, by such means as postal verification and
23 federal or state locator services, examination of telephone
24 directories, requests for the obligor's address from employers
25 and examination of governmental records, including, to the

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1 extent not prohibited by other law, those relating to real
2 property, vital statistics, law enforcement, taxation, motor
3 vehicles, driver's licenses and social security. "

4 Section 22. Section 40-6A-311 NMSA 1978 (being Laws 1994,
5 Chapter 107, Section 311) is amended to read:

6 "40-6A-311. PLEADINGS AND ACCOMPANYING DOCUMENTS. --

7 (a) In a proceeding under the Uniform Interstate
8 Family Support Act, a petitioner seeking to establish [~~or~~
9 ~~modify~~] a support order, [~~or~~] to determine parentage [~~in a~~
10 ~~proceeding under the Uniform Interstate Family Support Act must~~
11 ~~verify the~~] or to register and modify a support order of
12 another state shall file a petition. Unless otherwise ordered
13 under Section [~~312 of the Uniform Interstate Family Support~~
14 ~~Act~~] 40-6A-312 NMSA 1978, the petition or accompanying
15 documents [~~must~~] shall provide, so far as known, the name,
16 residential address and social security numbers of the obligor
17 and the obligee or the parent and alleged parent and the name,
18 sex, residential address, social security number and date of
19 birth of each child for [~~whom~~] whose benefit support is sought
20 or whose parentage is to be determined. Unless filed at the
21 time of registration, the petition [~~must~~] shall be accompanied
22 by a [~~certified~~] copy of any support order [~~in effect~~] known to
23 have been issued by another tribunal. The petition may include
24 any other information that may assist in locating or
25 identifying the respondent.

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1 (b) The petition [~~must~~] shall specify the relief
2 sought. The petition and accompanying documents [~~must~~] shall
3 conform substantially with the requirements imposed by the
4 forms mandated by federal law for use in cases filed by a
5 support enforcement agency. "

6 Section 23. Section 40-6A-312 NMSA 1978 (being Laws 1994,
7 Chapter 107, Section 312) is amended to read:

8 "40-6A-312. NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL
9 CIRCUMSTANCES. -- [~~Upon a finding, which may be made ex parte,~~
10 ~~that the health, safety or liberty of a party or child would be~~
11 ~~unreasonably put at risk by the disclosure of identifying~~
12 ~~information or if an existing order so provides, a tribunal~~
13 ~~shall order that the address of the child or party or other~~
14 ~~identifying information not be disclosed in a pleading or other~~
15 ~~document filed in a proceeding under the Uniform Interstate~~
16 ~~Family Support Act] If a party alleges in an affidavit or a
17 pleading under oath that the health, safety or liberty of a
18 party or child would be jeopardized by disclosure or specific
19 identifying information, that information shall be sealed and
20 may not be disclosed to the other party or the public. After a
21 hearing in which a tribunal takes into consideration the
22 health, safety or liberty of the party or child, the tribunal
23 may order disclosure of information that the tribunal
24 determines to be the interest of justice. "~~

25 Section 24. Section 40-6A-313 NMSA 1978 (being Laws 1994,

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1 Chapter 107, Section 313) is amended to read:

2 "40-6A-313. COSTS AND FEES. --

3 (a) The petitioner may not be required to pay a
4 filing fee or other costs.

5 (b) If an obligee prevails, a responding tribunal
6 may assess against an obligor filing fees, reasonable
7 attorney's fees, other costs and necessary travel and other
8 reasonable expenses incurred by the obligee and the obligee's
9 witnesses. The tribunal may not assess fees, costs or expenses
10 against the obligee or the support enforcement agency of either
11 the initiating or the responding state, except as provided by
12 other law. Attorney's fees may be taxed as costs and may be
13 ordered paid directly to the attorney, who may enforce the
14 order in the attorney's own name. Payment of support owed to
15 the obligee has priority over fees, costs and expenses.

16 (c) The tribunal shall order the payment of costs
17 and reasonable attorney's fees if it determines that a hearing
18 was requested primarily for delay. In a proceeding under
19 [~~Article 6 of the Uniform Interstate Family Support Act~~]
20 Sections 40-6A-601 through 40-6A-615 NMSA 1978, a hearing is
21 presumed to have been requested primarily for delay if a
22 registered support order is confirmed or enforced without
23 change. "

24 Section 25. Section 40-6A-314 NMSA 1978 (being Laws 1994,
25 Chapter 107, Section 314) is amended to read:

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1 "40-6A-314. LIMITED IMMUNITY OF PETITIONER. --

2 (a) Participation by a petitioner in a proceeding
3 under the Uniform Interstate Family Support Act before a
4 responding tribunal, whether in person, by private attorney or
5 through services provided by the support enforcement agency,
6 does not confer personal jurisdiction over the petitioner in
7 another proceeding.

8 (b) A petitioner is not amenable to service of
9 civil process while physically present in this state to
10 participate in a proceeding under the Uniform Interstate Family
11 Support Act.

12 (c) The immunity granted by this section does not
13 extend to civil litigation based on acts unrelated to a
14 proceeding under the Uniform Interstate Family Support Act
15 committed by a party while present in this state to participate
16 in the proceeding. "

17 Section 26. Section 40-6A-316 NMSA 1978 (being Laws 1994,
18 Chapter 107, Section 316) is amended to read:

19 "40-6A-316. SPECIAL RULES OF EVIDENCE AND PROCEDURE. --

20 (a) The physical presence of [~~the petitioner~~] a
21 nonresident party who is an individual in a [~~responding~~]
22 tribunal of this state is not required for the establishment,
23 enforcement or modification of a support order or the rendition
24 of a judgment determining parentage.

25 (b) [~~A verified petition~~] An affidavit, a document

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1 substantially complying with federally mandated forms, ~~[and]~~ or
2 a document incorporated by reference in any of them that would
3 not be excluded under the hearsay rule if given in person, is
4 admissible in evidence if given under ~~[oath]~~ penalty of perjury
5 by a party or witness residing in another state.

6 (c) A copy of the record of child support payments
7 certified as a true copy of the original by the custodian of
8 the record ~~may~~ be forwarded to a responding tribunal. The copy
9 is evidence of facts asserted in it and is admissible to show
10 whether payments were made.

11 (d) Copies of bills for testing for parentage and
12 for prenatal and postnatal health care of the mother and child,
13 furnished to the adverse party at least ten days before trial,
14 are admissible in evidence to prove the amount of the charges
15 billed and that the charges were reasonable, necessary and
16 customary.

17 (e) Documentary evidence transmitted from another
18 state to a tribunal of this state by telephone, telecopier or
19 other means that do not provide an original ~~[writing]~~ record
20 may not be excluded from evidence on an objection based on the
21 means of transmission.

22 (f) In a proceeding under the Uniform Interstate
23 Family Support Act, a tribunal of this state ~~[may]~~ shall permit
24 a party or witness residing in another state to be deposed or
25 to testify by telephone, audiovisual means or other electronic

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1 means at a designated tribunal or other location in that state.
2 A tribunal of this state shall cooperate with tribunals of
3 other states in designating an appropriate location for the
4 deposition or testimony.

5 (g) If a party called to testify at a civil hearing
6 refuses to answer on the ground that the testimony may be
7 self-incriminating, the trier of fact may draw an adverse
8 inference from the refusal.

9 (h) A privilege against disclosure of
10 ~~communications~~ between spouses does not apply in a proceeding
11 under the Uniform Interstate Family Support Act.

12 (i) The defense of ~~immunity~~ based on the
13 relationship of husband and wife or parent and child does not
14 apply in a proceeding under the Uniform Interstate Family
15 Support Act.

16 (j) A voluntary acknowledgment of paternity,
17 certified as a true copy, is admissible to establish parentage
18 of the child."

19 Section 27. Section 40-6A-317 NMSA 1978 (being Laws 1994,
20 Chapter 107, Section 317) is amended to read:

21 "40-6A-317. COMMUNICATIONS BETWEEN TRIBUNALS. -- A tribunal
22 of this state may ~~communicate~~ with a tribunal of another state
23 or foreign country or political subdivision in ~~[writing]~~ a
24 record or by telephone or other means to obtain information
25 concerning the laws ~~[of that state]~~, the legal effect of a

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1 judgment, decree or order of that tribunal and the status of a
2 proceeding in the other state or foreign country or political
3 subdivision. A tribunal of this state may furnish similar
4 information by similar means to a tribunal of another state or
5 foreign country or political subdivision. "

6 Section 28. Section 40-6A-319 NMSA 1978 (being Laws 1994,
7 Chapter 107, Section 319) is amended to read:

8 "40-6A-319. RECEIPT AND DISBURSEMENT OF PAYMENTS. --

9 (a) A support enforcement agency or tribunal of
10 this state shall disburse promptly any amounts received
11 pursuant to a support order, as directed by the order. The
12 agency or tribunal shall furnish to a requesting party or
13 tribunal of another state a certified statement by the
14 custodian of the record of the amounts and dates of all
15 payments received.

16 (b) If neither the obligor, nor the obligee who is
17 an individual, nor the child resides in this state, upon
18 request from the support enforcement agency of this state or
19 another state, the support enforcement agency of this state or
20 a tribunal of this state shall:

21 (1) direct that the support payment be made to
22 the support enforcement agency in the state in which the
23 obligee is receiving services; and

24 (2) issue and send to the obligor's employer a
25 conforming income-withholding order or an administrative notice

1 of change of payee, reflecting the redirected payments.

2 (c) The support enforcement agency of this state
3 receiving redirected payments from another state pursuant to a
4 law similar to Subsection (b) of this section shall furnish to
5 a requesting party or tribunal of the other state a certified
6 statement by the custodian of the record of the amount and
7 dates of all payments received. "

8 Section 29. Section 40-6A-401 NMSA 1978 (being Laws 1994,
9 Chapter 107, Section 401) is amended to read:

10 "40-6A-401. PETITION TO ESTABLISH SUPPORT ORDER. --

11 (a) If a support order entitled to recognition
12 under the Uniform Interstate Family Support Act has not been
13 issued, a responding tribunal of this state may issue a support
14 order if:

15 (1) the individual seeking the order resides
16 in another state; or

17 (2) the support enforcement agency seeking the
18 order is located in another state.

19 (b) The tribunal may issue a temporary child
20 support order if [~~(1) the respondent has signed a verified~~
21 ~~statement acknowledging parentage;~~

22 ~~(2) the respondent has been determined by or~~
23 ~~pursuant to law to be the parent; or~~

24 ~~(3) there is other clear and convincing~~
25 ~~evidence that the respondent is the child's parent.] the~~

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1 tribunal determines that such an order is appropriate and the
2 individual ordered to pay is:

3 (1) a presumed father of the child;

4 (2) petitioning to have his paternity
5 adjudicated;

6 (3) identified as the father of the child
7 through genetic testing;

8 (4) an alleged father who has declined to
9 submit to genetic testing;

10 (5) shown by clear and convincing evidence to
11 be the father of the child;

12 (6) an acknowledged father as provided by
13 applicable state law;

14 (7) the mother of the child; or

15 (8) an individual who has been ordered to pay
16 child support in a previous proceeding and the order has not
17 been reversed or vacated.

18 (c) Upon finding, after notice and opportunity to
19 be heard, that an obligor owes a duty of support, the tribunal
20 shall issue a support order directed to the obligor and may
21 issue other orders pursuant to Section [~~305 of the Uniform~~
22 ~~Interstate Family Support Act~~] 40-6A-305 NMSA 1978. "

23 Section 30. Section 40-6A-501 NMSA 1978 (being Laws 1994,
24 Chapter 107, Section 501, as amended) is amended to read:

25 "40-6A-501. EMPLOYER'S RECEIPT OF INCOME-WITHOLDING

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1 ORDER OF ANOTHER STATE. -- An ~~income~~-withholding order issued in
2 another state may be sent by or on behalf of the obligee, or by
3 the support enforcement agency to the obligor's employer
4 without first filing a petition or comparable pleading or
5 registering the order with a tribunal of this state. "

6 Section 31. Section 40-6A-502 NMSA 1978 (being Laws 1997,
7 Chapter 9, Section 12) is amended to read:

8 "40-6A-502. EMPLOYER'S COMPLIANCE WITH [~~INCOME-~~
9 ~~WITHHOLDING~~] INCOME-WITHHOLDING ORDER OF ANOTHER STATE. --

10 (a) Upon receipt of an [~~income-withholding~~] income-
11 withholding order, the obligor's employer shall immediately
12 provide a copy of the order to the obligor.

13 (b) The employer shall treat an [~~income-withholding~~]
14 income-withholding order issued in another state that appears
15 regular on its face as if it had been issued by a tribunal of
16 this state.

17 (c) Except as otherwise provided in Subsection (d)
18 of this section and Section 40-6A-503 NMSA 1978, the employer
19 shall withhold and distribute the funds as directed in the
20 withholding order by complying with terms of the order that
21 specify:

22 (1) the duration and amount of periodic
23 payments of current child support, stated as a sum certain;

24 (2) the person [~~or agency~~] designated to
25 receive payments and the address to which the payments are to

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1 be forwarded;

2 (3) medical support, whether in the form of
3 periodic cash payment, stated as a sum certain, or ordering the
4 obligor to provide health insurance coverage for the child
5 under a policy available through the obligor's employment;

6 (4) the amount of periodic payments of fees
7 and costs for a support enforcement agency, the issuing
8 tribunal and the obligee's attorney, stated as sums certain;
9 and

10 (5) the amount of periodic payments of
11 arrearages and interest on arrearages, stated as sums certain.

12 (d) An employer shall comply with the law of the
13 state of the obligor's principal place of employment for
14 withholding from income with respect to:

15 (1) the employer's fee for processing an
16 income-withholding order;

17 (2) the maximum amount permitted to be
18 withheld from the obligor's income; and

19 (3) the times within which the employer [~~must~~]
20 shall implement the withholding order and forward the child-
21 support payment. "

22 Section 32. Section 40-6A-503 NMSA 1978 (being Laws 1997,
23 Chapter 9, Section 13) is amended to read:

24 "40-6A-503. EMPLOYEE'S COMPLIANCE WITH [MULTIPLE] TWO OR
25 MORE INCOME-WITHHOLDING ORDERS. -- If an obligor's employer

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1 receives [~~multiple~~] two or more income-withholding orders with
2 respect to the earnings of the same obligor, the employer
3 satisfies the terms of the [~~multiple~~] orders if the employer
4 complies with the law of the state of the obligor's principal
5 place of employment to establish the priorities for withholding
6 and allocating income withheld for [~~multiple~~] two or more
7 child-support obligees. "

8 Section 33. Section 40-6A-506 NMSA 1978 (being Laws 1997,
9 Chapter 9, Section 16) is amended to read:

10 "40-6A-506. CONTEST BY OBLIGOR. --

11 (a) An obligor may contest the validity or
12 enforcement of an income-withholding order issued in another
13 state and received directly by an employer in this state by
14 registering the order in a tribunal of this state and filing a
15 contest to that order as provided in Sections 40-6A-601 through
16 40-6A-615 NMSA 1978, or otherwise contesting the order in the
17 same manner as if the order had been issued by a tribunal of
18 this state. [~~Section 40-6A-604 NMSA 1978 applies to the~~
19 contest.]

20 (b) The obligor shall give notice of the contest
21 to:

22 (1) a support enforcement agency providing
23 services to the obligee;

24 (2) each employer that has directly received
25 an income-withholding order relating to the obligor; and

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1 (3) the person [~~or agency~~] designated to
2 receive payments in the income-withholding order or, if no
3 person [~~or agency~~] is designated, to the obligee. "

4 Section 34. Section 40-6A-507 NMSA 1978 (being Laws 1997,
5 Chapter 9, Section 17) is amended to read:

6 "40-6A-507. ADMINISTRATIVE ENFORCEMENT OF ORDERS. --

7 (a) A party or support enforcement agency seeking
8 to enforce a support order or an income-withholding order, or
9 both, issued by a tribunal of another state may send the
10 documents required for registering the order to a support
11 enforcement agency of this state.

12 (b) Upon receipt of the documents, the support
13 enforcement agency, without initially seeking to register the
14 order, shall consider and, if appropriate, use any
15 administrative procedure authorized by the law of this state to
16 enforce a support order or an income-withholding order, or
17 both. If the obligor does not contest administrative
18 enforcement, the order need not be registered. If the obligor
19 contests the validity or administrative enforcement of the
20 order, the support enforcement agency shall register the order
21 pursuant to the Uniform Interstate Family Support Act. "

22 Section 35. Section 40-6A-601 NMSA 1978 (being Laws 1994,
23 Chapter 107, Section 601) is amended to read:

24 "40-6A-601. REGISTRATION OF ORDER FOR ENFORCEMENT. --

25 A support order or [~~an~~] income-withholding order issued by a

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1 tribunal of another state may be registered in this state for
2 enforcement. "

3 Section 36. Section 40-6A-602 NMSA 1978 (being Laws 1994,
4 Chapter 107, Section 602) is amended to read:

5 "40-6A-602. PROCEDURE TO REGISTER ORDER FOR
6 ENFORCEMENT. --

7 (a) A support order or income-withholding order of
8 another state may be registered in this state by sending the
9 following [~~documents~~] records and information to the
10 appropriate tribunal in this state:

11 (1) a letter of transmittal to the tribunal
12 requesting registration and enforcement;

13 (2) two copies, including one certified copy,
14 of [~~all orders~~] the order to be registered, including any
15 modification of [~~an~~] the order;

16 (3) a sworn statement by the [~~party seeking~~]
17 person requesting registration or a certified statement by the
18 custodian of the records showing the amount of any arrearage;

19 (4) the name of the obligor and, if known:
20 (i) the obligor's address and social
21 security number;

22 (ii) the name and address of the
23 obligor's employer and any other source of income of the
24 obligor; and

25 (iii) a description and the location of

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1 property of the obligor in this state not exempt from
2 execution; and

3 (5) except as otherwise provided in Section
4 40-6A-312 NMSA 1978, the name and address of the obligee and,
5 if applicable, the ~~[agency or]~~ person to whom support payments
6 are to be remitted.

7 (b) On receipt of a request for registration, the
8 registering tribunal shall cause the order to be filed as a
9 foreign judgment, together with one copy of the documents and
10 information, regardless of their form.

11 (c) A petition or comparable pleading seeking a
12 remedy that ~~must~~ be affirmatively sought under other law of
13 this state ~~may~~ be filed at the same time as the request for
14 registration or later. The pleading ~~[must]~~ shall specify the
15 grounds for the remedy sought.

16 (d) If two or more orders are in effect, the person
17 requesting registration shall:

18 (1) furnish to the tribunal a copy of every
19 support order asserted to be in effect in addition to the
20 documents specified in this section;

21 (2) specify the order alleged to be the
22 controlling order, if any; and

23 (3) specify the amount of consolidated
24 arrears, if any.

25 (e) A request for a determination of which is the

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1 controlling order may be filed separately or with a request for
2 registration and enforcement or for registration and
3 modification. The person requesting registration shall give
4 notice of the request to each party whose rights may be
5 affected by the determination. "

6 Section 37. Section 40-6A-604 NMSA 1978 (being Laws 1994,
7 Chapter 107, Section 604) is amended to read:

8 "40-6A-604. CHOICE OF LAW. --

9 (a) Except as otherwise provided in Subsection (d)
10 of this section, the law of the issuing state governs:

11 (1) the nature, extent, amount and duration of
12 current payments [and other obligations of support and the
13 payment of arrearage] under [the] a registered support order;

14 (2) the computation and payment of arrearages
15 and accrual of interest on the arrearages under the support
16 order; and

17 (3) the existence and satisfaction of other
18 obligations under the support order.

19 (b) In a proceeding for [~~arrearage~~] arrears under a
20 registered support order, the statute of limitation [under the
21 laws] of this state or of the issuing state, whichever is
22 longer, applies.

23 (c) A responding tribunal of this state shall apply
24 the procedures and remedies of this state to enforce current
25 support and collect arrears and interest due on a support order

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1 of another state registered in this state.

2 (d) After a tribunal of this or another state
3 determines which is the controlling order and issues an order
4 consolidating arrears, if any, a tribunal of this state shall
5 prospectively apply the law of the state issuing the
6 controlling order, including its law on interest on arrears, on
7 current and future support, and on consolidated arrears."

8 Section 38. Section 40-6A-605 NMSA 1978 (being Laws 1994,
9 Chapter 107, Section 605, as amended) is amended to read:

10 "40-6A-605. NOTICE OF REGISTRATION OF ORDER. --

11 (a) When a support order or income-withholding
12 order issued in another state is registered, the registering
13 tribunal shall notify the nonregistering party. The notice
14 shall be accompanied by a copy of the registered order and the
15 documents and relevant information accompanying the order.

16 (b) ~~[The]~~ A notice shall inform the nonregistering
17 party:

18 (1) that a registered order is enforceable as
19 of the date of registration in the same manner as an order
20 issued by a tribunal of this state;

21 (2) that a hearing to contest the validity or
22 enforcement of the registered order must be requested within
23 twenty days after notice;

24 (3) that failure to contest the validity or
25 enforcement of the registered order in a timely manner will

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1 result in confirmation of the order and enforcement of the
2 order and the alleged arrearage and precludes further contest
3 of that order with respect to any matter that could have been
4 asserted; and

5 (4) of the amount of any alleged arrearage.

6 (c) If the registering party asserts that two or
7 more orders are in effect, a notice shall also:

8 (1) identify the two or more orders and the
9 order alleged by the registering person to be the controlling
10 order and the consolidated arrears, if any;

11 (2) notify the nonregistering party of the
12 right to a determination of which is the controlling order;

13 (3) state that the procedures provided in
14 Subsection (b) of this section apply to the determination of
15 which is the controlling order; and

16 (4) state that failure to contest the validity
17 or enforcement of the order alleged to be the controlling order
18 in a timely manner may result in confirmation that the order is
19 the controlling order.

20 [~~(e)~~] (d) Upon registration of an income-
21 withholding order for enforcement, the registering tribunal
22 shall notify the obligor's employer. "

23 Section 39. Section 40-6A-607 NMSA 1978 (being Laws 1994,
24 Chapter 107, Section 607) is amended to read:

25 "40-6A-607. CONTEST OF REGISTRATION OR ENFORCEMENT. --

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1 (a) A party contesting the validity or enforcement
2 of a registered order or seeking to vacate the registration has
3 the burden of proving one or more of the following defenses:

4 (1) the issuing tribunal lacked personal
5 jurisdiction over the contesting party;

6 (2) the order was obtained by fraud;

7 (3) the order has been vacated, suspended or
8 modified by a later order;

9 (4) the issuing tribunal has stayed the order
10 pending appeal;

11 (5) there is a defense under the law of this
12 state to the remedy sought;

13 (6) full or partial payment has been made;

14 [~~or~~]

15 (7) the statute of limitation under Section
16 [~~604 of the Uniform Interstate Family Support Act~~] 40-6A-604
17 NMSA 1978 precludes enforcement of some or all of the alleged
18 arrearage; or

19 (8) the alleged controlling order is not the
20 controlling order.

21 (b) If a party presents evidence establishing a
22 full or partial defense under Subsection (a) of this section, a
23 tribunal may stay enforcement of the registered order, continue
24 the proceeding to permit production of additional relevant
25 evidence and issue other appropriate orders. An uncontested

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1 portion of the registered order may be enforced by all remedies
2 available under the law of this state.

3 (c) If the contesting party does not establish a
4 defense under Subsection (a) of this section to the validity or
5 enforcement of the order, the registering tribunal shall issue
6 an order confirming the order. "

7 Section 40. Section 40-6A-610 NMSA 1978 (being Laws 1994,
8 Chapter 107, Section 610) is amended to read:

9 "40-6A-610. EFFECT OF REGISTRATION FOR MODIFICATION. --
10 A tribunal of this state may enforce a child support order of
11 another state registered for purposes of modification, in the
12 same manner as if the order had been issued by a tribunal of
13 this state, but the registered order may be modified only if
14 the requirements of [~~Section 611 of the Uniform Interstate~~
15 ~~Family Support Act~~] Sections 40-6A-611, 40-6A-613 and 40-6A-615
16 NMSA 1978 have been met. "

17 Section 41. Section 40-6A-611 NMSA 1978 (being Laws 1994,
18 Chapter 107, Section 611, as amended) is amended to read:

19 "40-6A-611. MODIFICATION OF CHILD-SUPPORT ORDER OF
20 ANOTHER STATE. --

21 (a) [~~After~~] If Section 40-6A-613 NMSA 1978 does not
22 apply, except as otherwise provided in Section 40-6A-615 NMSA
23 1978, upon petition a tribunal of this state may modify a
24 child-support order issued in another state [has been] that is
25 registered in this state [the responding tribunal of this state

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1 ~~may modify that order only if Section 40-6A-613 NMSA 1978 does~~
2 ~~not apply and~~ if, after notice and hearing, ~~[it]~~ the tribunal
3 finds that:

4 (1) the following requirements are met:

5 (i) neither the child, nor the
6 ~~[individual]~~ obligee ~~[and]~~ who is an individual nor the obligor
7 ~~[do not reside]~~ resides in the issuing state;

8 (ii) a petitioner who is a nonresident
9 of this state seeks modification; and

10 (iii) the respondent is subject to the
11 personal jurisdiction of the tribunal of this state; or

12 (2) this state is the state of residence of
13 the child or a party who is an individual is subject to the
14 personal jurisdiction of the tribunal of this state and all of
15 the parties who are individuals have filed ~~[written]~~ consents
16 in a record in the issuing tribunal for a tribunal of this
17 state to modify the support order and assume continuing,
18 exclusive jurisdiction ~~[over the order. However, if the issuing~~
19 ~~state is a foreign jurisdiction that has not enacted a law or~~
20 ~~established procedures substantially similar to the procedures~~
21 ~~under the Uniform Interstate Family Support Act, the consent~~
22 ~~otherwise required of an individual residing in this state is~~
23 ~~not required for the tribunal to assume jurisdiction to modify~~
24 ~~the child support order].~~

25 (b) Modification of a registered child-support

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1 order is subject to the same requirements, procedures and
2 defenses that apply to the modification of an order issued by a
3 tribunal of this state, and the order may be enforced and
4 satisfied in the same manner.

5 (c) Except as otherwise provided in Section
6 40-6A-615 NMSA 1978, a tribunal of this state may not modify
7 any aspect of a child-support order that may not be modified
8 under the law of the issuing state, including the duration of
9 the obligation of support. If two or more tribunals have
10 issued child-support orders for the same obligor and same
11 child, the order that controls and shall be so recognized under
12 Section 40-6A-207 NMSA 1978 establishes the aspects of the
13 support order which are nonmodifiable.

14 (d) In a proceeding to modify a child-support
15 order, the law of the state that is determined to have issued
16 the initial controlling order governs the duration of the
17 obligation of support. The obligor's fulfillment of the duty
18 of support established by that order precludes imposition of
19 further obligation of support by a tribunal of this state.

20 [~~(d)~~] (e) On issuance of an order by a tribunal of
21 this state modifying a child-support order issued in another
22 state, [a] the tribunal of this state becomes the tribunal
23 having continuing, exclusive jurisdiction. "

24 Section 42. Section 40-6A-612 NMSA 1978 (being Laws 1994,
25 Chapter 107, Section 612) is amended to read:

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1 "40-6A-612. RECOGNITION OF ORDER MODIFIED IN ANOTHER
2 STATE. -- If a child-support order issued by a tribunal of this
3 state ~~[shall recognize a modification of its earlier child~~
4 ~~support order]~~ is modified by a tribunal of another state which
5 assumed jurisdiction pursuant to ~~[a law substantially similar~~
6 ~~to]~~ the Uniform Interstate Family Support Act, ~~[and, upon~~
7 ~~request, except as otherwise provided in that act, shall]~~ a
8 tribunal of this state:

9 (1) may enforce ~~[the]~~ its order that was modified
10 only as to ~~[amounts]~~ arrears and interest accruing before the
11 modification;

12 ~~[(2) enforce only nonmodifiable aspects of that~~
13 ~~order;~~

14 ~~(3)]~~ (2) may provide ~~[other]~~ appropriate relief
15 ~~[only]~~ for violations of ~~[that]~~ its order which occurred before
16 the effective date of the modification; and

17 ~~[(4)]~~ (3) shall recognize the modifying order of
18 the other state, upon registration, for the purpose of
19 enforcement. "

20 Section 43. A new section of the Uniform Interstate
21 Family Support Act, Section 40-6A-615 NMSA 1978, is enacted to
22 read:

23 "40-6A-615. [NEW MATERIAL] JURISDICTION TO MODIFY CHILD-
24 SUPPORT ORDER OF FOREIGN COUNTRY OR POLITICAL SUBDIVISION. --

25 (a) If a foreign country or political subdivision

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1 that is a state will not or may not modify its order pursuant
2 to its laws, a tribunal of this state may assume jurisdiction
3 to modify the child-support order and bind all individuals
4 subject to the personal jurisdiction of the tribunal whether or
5 not the consent to modification of a child-support order
6 otherwise required of the individual pursuant to Section
7 40-6A-611 NMSA 1978 has been given or whether the individual
8 seeking modification is a resident of this state or of the
9 foreign country or political subdivision.

10 (b) An order issued pursuant to this section is the
11 controlling order. "

12 Section 44. Section 40-6A-701 NMSA 1978 (being Laws 1994,
13 Chapter 107, Section 701) is amended to read:

14 "40-6A-701. PROCEEDING TO DETERMINE PARENTAGE. -- ~~[(a)]~~ A
15 ~~[tribunal]~~ court of this state authorized to determine
16 parentage of a child may serve as ~~[an initiating or]~~ a
17 responding tribunal in a proceeding to determine parentage
18 brought under the Uniform Interstate Family Support Act or a
19 law substantially similar to that act ~~[the Uniform Reciprocal~~
20 ~~Enforcement of Support Act or the Revised Uniform Reciprocal~~
21 ~~Enforcement of Support Act to determine that the petitioner is~~
22 ~~a parent of a particular child or to determine that a~~
23 ~~respondent is a parent of that child.~~

24 (b) ~~In a proceeding to determine parentage, a~~
25 ~~responding tribunal of this state shall apply the procedural~~

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1 ~~and substantive law of this state and the rules of this state~~
2 ~~on choice of law]. "~~

3 Section 45. Section 40-6A-801 NMSA 1978 (being Laws 1994,
4 Chapter 107, Section 801) is amended to read:

5 "40-6A-801. GROUNDS FOR RENDITION. --

6 (a) For purposes of this article, "governor"
7 includes an individual performing the functions of governor or
8 the executive authority of a state covered by the Uniform
9 Interstate Family Support Act.

10 (b) The governor of this state may:

11 (1) demand that the governor of another state
12 surrender an individual found in the other state who is charged
13 criminally in this state with having failed to provide for the
14 support of an obligee; or

15 (2) on the demand ~~[by]~~ of the governor of
16 another state, surrender an individual found in this state who
17 is charged criminally in the other state with having failed to
18 provide for the support of an obligee.

19 (c) A provision for extradition of individuals not
20 inconsistent with the Uniform Interstate Family Support Act
21 applies to the demand even if the individual whose surrender is
22 demanded was not in the demanding state when the crime was
23 allegedly committed and has not fled therefrom. "

24 Section 46. Section 40-6A-802 NMSA 1978 (being Laws 1994,
25 Chapter 107, Section 802) is amended to read:

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1 "40-6A-802. CONDITIONS OF RENDITION. --

2 (a) Before making demand that the governor of
3 another state surrender an individual charged criminally in
4 this state with having failed to provide for the support of an
5 obligee, the governor of this state may require a prosecutor of
6 this state to demonstrate that at least sixty days previously
7 the obligee had initiated proceedings for support pursuant to
8 the Uniform Interstate Family Support Act or that the
9 proceeding would be of no avail.

10 (b) If, under the Uniform Interstate Family Support
11 Act or a law substantially similar to that act, [~~the Uniform~~
12 ~~Reciprocal Enforcement of Support Act or the Revised Uniform~~
13 ~~Reciprocal Enforcement of Support Act]~~ the governor of another
14 state makes a demand that the governor of this state surrender
15 an individual charged criminally in that state with having
16 failed to provide for the support of a child or other
17 individual to whom a duty of support is owed, the governor may
18 require a prosecutor to investigate the demand and report
19 whether a proceeding for support has been initiated or would be
20 effective. If it appears that a proceeding would be effective
21 but has not been initiated, the governor may delay honoring the
22 demand for a reasonable time to permit the initiation of a
23 proceeding.

24 (c) If a proceeding for support has been initiated
25 and the individual whose rendition is demanded prevails, the

1 governor may decline to honor the demand. If the petitioner
2 prevails and the individual whose rendition is demanded is
3 subject to a support order, the governor may decline to honor
4 the demand if the individual is complying with the support
5 order. "

6 Section 47. RECOMPILATION. --

7 A. Section 40-6A-102 NMSA 1978 (being Laws 1994,
8 Chapter 107, Section 102, as amended) is recompiled as Section
9 40-6A-103 NMSA 1978.

10 B. Section 40-6A-902 NMSA 1978 (being Laws 1994,
11 Chapter 107, Section 902, as amended) is recompiled as Section
12 40-6A-101 NMSA 1978.